



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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In re Application of :  
Albert A. BURLANDO :  
Application No.: 09/577,854 :  
Filing Date: May 25, 2000 :  
Attorney Docket No.: P/4593 :  
DECISION ON PETITION  
TO MAKE SPECIAL

This is a decision on the Petition under 37 CFR § 1.102(d) filed on November 17, 2000 requesting that the above identified application be granted special status and examined out of turn on the ground of actual infringement as set forth in MPEP § 708.02 II.

MPEP § 708.02 II requires, besides a petition and petition fee, a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

- (A) That there is an infringing device or product actually on the market or method in use;
- (B) That a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that in his or her opinion, some of the claims are unquestionably infringed; and
- (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has good knowledge of the pertinent prior art.

The Petition filed on November 17, 2000 was accompanied by a Verified Statement of Albert A. Burlando (the sole inventor) and an Information Disclosure Statement (IDS). The Petition and Verified Statement failed to fully satisfy sections (B) and (C) of MPEP § 708.02 II. On February 2, 2001, a Supplemental Declaration of Clifford G. Frayne (attorney) was filed by facsimile transmission (the original of the facsimile transmission was later filed on February 5, 2001). The Petition, Verified Statement, IDS and Supplemental Declaration taken together satisfies all the requirements set forth in MPEP § 708.02 II.

The Petition is GRANTED.

Edward Westin

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